

December 28, 2018

Mr. John Canoles  
Eco-Science Professionals, Inc.  
P.O. Box 5006  
Glen Arm, MD 21057

RE: Holy Trinity Fathers Monastery  
Forest Conservation Variance  
Tracking # 02-18-2730

Dear Mr. Canoles:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on May 17, 2018. If granted, the variance would authorize the removal of 28 of 109 specimen trees to develop 14 single family detached dwelling lots around a monastery to remain on a 39-acre site. However, EPS staff comments on the preliminary forest conservation plan (FCP) accompanying the variance application resulted in a revised FCP being submitted to EPS on November 7, 2018 that reduced the number of native specimen trees and forest to be cleared. The revised FCP proposes removal of 27 specimen trees instead of 28 and 0.1-acre less forest clearing to develop 13 instead of 14 lots. Twelve of the 26 specimens to be removed are native species in fair to good condition outside of forest. Moreover, only 0.2 of the over 12 acres of forest onsite would be cleared with 1.2 acres of reforestation proposed in open portions of the Forest Buffer Easement to meet the project's 0.4-acre reforestation requirement and mitigate for specimen tree removal.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to develop 13

residential lots. However, the property has and will continue to be a monastery. Therefore, denying this variance would not deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The petitioner's plight necessitating the requested variance is largely due to the number and wide distribution of the 109 specimen trees onsite coupled with other design constraints rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The size and density of the proposed houses that would result, should the variance be granted, will be commensurate with the surrounding residential community. Therefore, we find that the variance, as requested, will not alter the essential character of the neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. While two of the viable specimens to be removed are in the Forest Buffer, they are along an existing drive to be improved, and their loss will be mitigated in accordance with any conditions of alternatives analysis approval. Moreover, adequate water quality management of storm runoff will be provided where none currently exists. Therefore, we find that granting of the special variance will not adversely affect water quality; thus, this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The variance request arises from the presence of numerous specimen trees throughout the site rather than from circumstances or conditions resulting from any action taken by the petitioner. Therefore, we find that this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Forest clearing and impacts to specimen trees have been minimized inasmuch as possible through redesign of the development project to result in only 0.2 acre of forest clearing and removal of 12 native, viable, specimen trees. Furthermore, onsite specimen tree mitigation by way of 0.8 acre of priority planting area is proposed. Therefore, we find that this criterion has been met.

Based on our review, this Department finds that the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following conditions:

1. 0.8 acre of open Forest Buffer area shall be planted in accordance with a final FCP. This is in addition to the 0.4 acre of reforestation required. All onsite planting shall be secured in an amount approved by EPS via an Environmental Agreement prior to issuance of any grading permit.
2. The following note must be on all plans for the project:

“A special variance to the Forest Conservation Law was approved by Baltimore County EPS on December 28, 2018 to allow removal of 27 specimen trees. Conditions were placed on this approval including 0.8 acre of reforestation in open Forest Buffer Easement on the property to mitigate the loss of 12 native specimen trees.”
3. A final FCP reflecting the conditions of this variance shall be submitted to EPS and approved prior to approval of the grading and sediment control plan for this project. The final FCP must clarify tree protection measures, especially fence locations, to adequately protect all specimen trees to remain.
4. All Forest Conservation Easements and Forest Buffer & Forest Conservation Easements shall be recorded along with their respective Declarations of Protective Covenants in Baltimore County Land Records prior to reduction or return of any forest conservation or forest buffer protection security.
5. Removal or critical impact to any additional specimen trees will require a separate variance request which will be reviewed on its own merits.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the developer or party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

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If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Acting Director

DVL/ges

- c. Mr. Matt Sichel, KCI, Inc.  
Ms. Marian Honeczy, Dept. of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

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Developer's Signature

Date

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Printed Name & Affiliation